

NATIONAL INSTITUTES OF HEALTH
Deputy Ethics Counselors and Ethics Coordinators
Meeting Minutes: March 27, 2006

Copyright and Contributors Agreements

When employees are performing Official Duty Activities such as writing or editing for journals and books, etc., and are asked to sign copyright or contributors agreements, OGC (Barbara McGarey's office) usually reviews these agreements so they accurately spell out the copyright situation with respect to government works.

In order to reduce review time, as many of these agreements are different from each publisher or organization, OGC has come up with template agreements that may be used in lieu of or as a signed attachment which supersedes the organization's agreement. Unless NIH has previously negotiated a contract with an organization the agreements sent recently by Annette Levey should be used in these situations. Before contacting OGC for a review of a publisher's proposed agreement, propose this copyright agreement.

As for an outside organization's financial disclosure forms, OGC/E is usually agreeable to these and it is up to the employee to disclose to the organization their holdings according to the agreement's request.

Supervisory Review of the 716 form

At this point the 716 forms which employees reported no SAO holdings on should be nearing completion and the difficult forms with possible conflicts should be in the process of review. IC DEC offices should be working with supervisors for their input on these forms to ensure employees who do have holdings are not in conflict situation. This means having the supervisor complete a review of the employee's holdings for conflict.

Supervisors have an ethics element in their performance contract which requires them to do tasks such as a meaningful review of their employee's financial holdings for conflict of interest. It is the supervisor's responsibility to keep the employee free of conflict in their official capacity. The supervisor should be intricately involved since they know the employees assignments, responsibilities and what they are working on officially (i.e., employee does X and company Y does Z and therefore there would be no conflict).

There was agreement that it is important that this instruction come from Drs. Kington Gottesman, Ruiz Bravo, IC Directors and IC Executive Officers, to supervisors so that the importance of this review is clear.

Outside Awards

By regulation, the award must be made as part of an established program of recognition:

- i. Under which awards have been made on a regular basis or which is funded, wholly or in part, to ensure its continuation on a regular basis; and
- ii. Under which selection of award recipients is made pursuant to written standards.

Therefore, the awards form will be fixed to delete the reference to selection committee review. An award is not bona fide by the mere fact that there was a committee formed by the organization to select the award winner.

Discussion included a review of when the award form is needed, the regulatory criteria for determining whether an award is bona-fide and the various levels of review. The new awards manual chapter is with OGC/E for review and will be issued soon.

Send awards for NEO/ACD/NIH DEC review to NEO only after the IC DEC has gathered research and proof of the regulatory criteria.

Outside Activity Requests

A short form 520A, similar to the 450A form is being drafted for certain ongoing outside activities. If implemented full outside activity requests (520s) would not be necessary for some repeated/ongoing activities with no changes.

All outside activities with a potential future income stream from royalties must be approved through NEAC. Merely collecting royalties, however, does not require submission of an outside activity request (520). Therefore, if the employee is no longer participating in the activity but is receiving royalty income from the activity, an outside activity request is not required. The royalties do need to be reported on the 278/450 if the employee is a filer.

Ideas were discussed on how non-ethics officials such as supervisors and AOs can monitor annual leave taken when it is being used for an outside activity.

Training:

There will not be any monthly EMIS brown bag training sessions as there was not enough interest from the community to justify them.

The DEC workshop is scheduled for Tuesday, April 4th in Lipsett auditorium.

OGE 278 training is scheduled for April 26th and there are only 2 spaces open in this class. Please contact Felecia Taylor to register.

Reminders:

Please be sure employees use the January 2006 version of the 520 request when submitting them for review and approval.

When entering data into EMIS for packages being sent to NEO, please be sure you've entered the data correctly and saved it before printing the report to put on top of the package.

Please be sure to send over hard copy, originals to the NEO. NEO cannot process fax or E-mailed electronic copies.

Meeting was adjourned at 12:05pm